

UCC COMMITTEE MEETING MATERIALS - MINUTES OF COMMITTEE MEETING, APRIL 4, 2003

Present: Peter Szurley (Chair); Andrew Erskine; Arnold S. Rosenberg (Recording Secretary); Gary B. Rosenbaum; Harry C. Sigman; James M. Purvis; Joel J. Berman; Martin M. Fleisher; Pamela J. Martinson; Peter S. Munoz; Randy P. Orlik; Robert V. Slattery Jr.; Sandra L. Shippey; Vasco H. Morais; Pauline M. Stevens; Bob Hagel.
Visitor: Suzanne Weakley

The meeting, held at the Park Hyatt Hotel in Century City, was called to order at approximately 3:15 p.m. Arnold Rosenberg was appointed Recording Secretary for the meeting.

On motion of Mr. Szurley, seconded by Mr. Sigman, the minutes of the last meeting were approved by acclamation.

There was discussion of future meeting dates. Meetings are set for May 14, June 10, and Wednesday, September 24, 2003. No action was taken to set meetings for July and August, pending determination whether these meetings will be needed.

Mr. Rosenbaum reported on proposed state legislation. SB 658 regarding producer's liens was discussed. Concerns were expressed about overbreadth, the creation of a secret lien and the potential impact on agricultural lending. There is a May 2 deadline for comments. Messrs. Rosenbaum and Erskine will check on the status of this bill, look into the issues, and circulate any desired comments by email for review by the Committee. There was also discussion of a proposed amendment regarding garnishments. Mr. Erskine will look into this issue and circulate any desired comments by email. Anyone wishing to propose comments on either of these bills should communicate them to Mr. Erskine or Mr. Rosenbaum within one week.

Mr. Szurley reported on the meeting of the Financial Institutions Committee regarding the revisions to Articles 3 and 4. It is in the process of studying the revisions and has not yet taken a position. It has not set a target date for doing so.

Mr. Sigman reported on Articles 2 and 6. Some minor revisions to Article 2 have been approved by NCCUSL and are being considered soon by ALI. One revision, to a comment, concerns whether, and how, Article 2 applies to software. Article 6 has been repealed in 41 states but not yet in California. The now-15-year-old report on Article 6 needs to be reviewed and supplemented with more recent Article 6 case law. It was suggested that Brian Hull of Loyola might undertake that task.

Mr. Szurley reported that Article 7 is being substantially rewritten. An Article 7 Subcommittee will be needed.

Mr. Fleisher reported on the progress of the Opinions Task Force in preparing its report. Comments on the report have been received from Steve Weise and others. The substance

and form of the report were discussed. Specific issues include the propriety of giving priority opinions, and giving opinions under the UCC as adopted by other states. Further comments on the report and its format and style were requested. Mr. Szurley reported that the Tri-Bar report is not yet complete. Steve Weise has been heavily involved in its preparation. Any input from the Committee is needed not later than April 15, 2003.

Mr. Szurley indicated that the Committee's comments on the Secretary of State's automation project were the only ones received by that office. Kathy Vasquez will be meeting with the California Bankers Association and other interested groups during the next couple of weeks. A planned call-in from Ms. Vasquez did not occur. Vasco is the Committee's liaison and will coordinate and report at the next meeting.

The Committee's website was discussed. Mr. Rosenbaum reported that some clean-up and updates will be up next week. Portions of the site being worked on by Mr. Sigman, including the material on legislation, will be up in June.

Mr. Szurley reported on the State Bar Business Law Section Executive Board retreat. There is a UCC "Constituency List" maintained by Susan Orloff which was out of date and has been corrected. The websites of the Financial Institutions and Corporations Committees were cited as models to follow. The focus should be on useful links and content and the site should be kept up-to-date. It was agreed that the Constituency List and website should be viewed as resources for general practitioners and the public as a clearinghouse of information about the UCC. The Committee's comments and letters should be posted on the site. Also, there is a UCC Committee listserv which can be used to send email to the Committee. Mr. Szurley will let the Committee know how to use the listserv.

An off-the-record discussion of vacancies and candidates for positions on the Committee took place. Candidates will be discussed further at the Committee's meeting in May.

The prospective workload of the Committee was discussed. Mr. Szurley reported that apart from Article 7, there are no major projects facing the Committee, but this could change if the Article 3/4 or Article 1 revisions go before the State Legislature.

Mr. Fleisher requested that someone prepare a list of secret liens in California for inclusion in the Opinion Task Force's report.

Problems in dealing with the Utah Secretary of State's office were discussed, specifically its failure to maintain complete copies of filings.

On motion of the Chair, the meeting was adjourned at approximately 4:50 p.m.